

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RICARDO M. SOMOZA,

Plaintiff,

v.

DIRECTOR OF CALIFORNIA
DEPARTMENT OF CORRECTIONS
AND REHABILITATION, et al.,

Defendants.

Case No. 1:20-cv-01600-AWI-SKO (PC)

**ORDER DENYING PLAINTIFF'S
"MOTION DEMANDING TRIAL AND OR
READY FOR SECOND SET OF
AMENDMENTS"**

(Doc. 19)

Plaintiff is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983.

On March 21, 2022, Plaintiff filed a document titled "Motion Demanding Trial and or Ready for Second Set of Amendments." (Doc. 19.) Plaintiff contends he did not receive a conformed copy of his first amended complaint and therefore "moves forward demanding trail [sic]." (*Id.* at 1-2.) Plaintiff further indicates he did not receive a conformed copy of "his change of address" to the California Men's Colony. (*Id.* at 2.) Finally, Plaintiff contends he is "ready for his second set of Amendments on the foregoing civil rights complaint" and asks the Court to grant his motion. (*Id.* at 3.)

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I. DISCUSSION

Concerning Plaintiff's demand for trial, Plaintiff's first amended complaint made a demand for jury trial. (*See* Doc. 17 at 6.) Since Plaintiff previously made a request for jury trial, no further motion or request is necessary to ensure this right. To the extent Plaintiff's motion can be construed to demand an immediate jury trial, the motion will be denied. No defendant has been served with a summons and complaint in this action, and an answer or responsive pleading has not been filed by any defendant. There can be no trial without an opposing party or parties. Discovery will commence only after defendants have appeared in this action and any pre-trial motions have been filed and decided. Therefore, Plaintiff's motion is premature.

Alternatively, Plaintiff moves for a "second set of amendments." (Doc. 19 at 3.) The motion is construed as a motion for screening of Plaintiff's first amended complaint. Plaintiff's first amended complaint must be screened and found to state cognizable claims prior to service on any defendant. 28 U.S.C. § 1915A. This Court is one of the busiest federal courts in the nation. The Court screens complaints in the order in which they are filed and strives to avoid delays whenever possible. However, there are hundreds of prisoner civil rights cases presently pending before this Court, and delays are inevitable despite the Court's best efforts. Plaintiff's first amended complaint will be screened in due course.

II. CONCLUSION AND ORDER

For the reasons stated above, IT IS HEREBY ORDERED that:

1. Plaintiff's "Motion Demanding Trial and or Ready for Second Set of Amendments" (Doc. 19) is DENIED; and
2. The Clerk of the Court is DIRECTED to serve Plaintiff with courtesy copies of his filed First Amended Complaint (Doc. 17) and Notice of Change of Address (Doc. 18).

IT IS SO ORDERED.

Dated: June 29, 2022

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE